

the organization is a calendar year taxpayer:

*Example.* In 2006, Organization T, with total assets in excess of \$10 million, is required to file one Form 990, "Return of Organization Exempt from Income Tax," 200 Forms W-2, "Wage and Tax Statement," one Form 940, "Employer's Annual Federal Unemployment (FUTA) Tax Return," four Forms 941, "Employer's Quarterly Federal Tax Return," and 60 Forms 1099-MISC, "Miscellaneous Income." Because T is required to file 266 returns during the calendar year, T must file its 2006 Form 990 electronically.

(f) *Effective/applicability dates.* This section applies to any organization required to file Form 990 for a taxable year ending on or after December 31, 2006, that has total assets as of the end of the taxable year of \$10 million or more. This section applies to any organization required to file Form 990-PF for taxable years ending on or after December 31, 2006, except for the application of the short year rules in paragraph (d)(3) of this section, which is applicable for taxable years ending on or after November 13, 2007.

[T.D. 9363, 72 FR 63811, Nov. 13, 2007]

**§ 301.6033-5T Disclosure by tax-exempt entities that are parties to certain reportable transactions (temporary).**

(a) *In general.* For provisions relating to the requirement of the disclosure by a tax-exempt entity that it is a party to certain reportable transactions, see § 1.6033-5T of this chapter (Income Tax Regulations).

(b) *Effective date—(1) Applicability date.* This section applies with respect to transactions entered into by a tax-exempt entity after May 17, 2006.

(2) *Expiration date.* This section will expire on July 5, 2010.

[T.D. 9335, 72 FR 36871, July 6, 2007]

**§ 301.6034-1 Returns by trusts described in section 4947(a)(2) or claiming charitable or other deductions under section 642(c).**

For provisions relating to the requirement of returns by trusts described in section 4947(a)(2) or claiming charitable or other deductions under section 642(c), see § 1.6034-1 of this chapter (Income Tax Regulations).

[T.D. 8026, 50 FR 20757, May 20, 1985]

**§ 301.6035-1 Returns of officers, directors, and shareholders of foreign personal holding companies.**

For provisions relating to the requirement of returns by officers, directors, and shareholders of foreign personal holding companies, see §§ 1.6035-1 to 1.6035-3, inclusive, of this chapter (Income Tax Regulations).

**§ 301.6036-1 Notice required of executor or of receiver or other like fiduciary.**

(a) *Receivers and other like fiduciaries—(1) Exemption for bankruptcy proceedings.* (i) A bankruptcy trustee, debtor in possession or other like fiduciary in a bankruptcy proceeding is not required by this section to give notice of appointment, qualification or authorization to act to the Secretary or his delegate. (However, see the notice requirements under the Bankruptcy Rules.)

(ii) Paragraph (a)(1)(i) of this section is effective for appointments, qualifications and authorizations to act made on or after January 29, 1988. For appointments, qualifications and authorizations to act made before the foregoing date, 26 CFR 301.6036-1 (a)(1) and (4)(i) (revised as of April 1, 1986) apply.

(2) *Proceedings other than bankruptcy.* A receiver in a receivership proceeding or a similar fiduciary in any proceeding (including a fiduciary in aid of foreclosure), designated by order of any court of the United States or of any State or Territory or of the District of Columbia as in control of all or substantially all the assets of a debtor or other party to such proceeding shall, on, or within 10 days of, the date of his appointment or authorization to act, give notice thereof in writing to the district director for the internal revenue district in which the debtor, or such other party, is or was required to make returns. Moreover, any fiduciary in aid of foreclosure not appointed by order of any such court, if he takes possession of all or substantially all the assets of the debtor, shall, on, or within 10 days of, the date of his taking possession, give notice thereof in writing to such district director.

(3) *Assignment for benefit of creditors.* An assignee for the benefit of a creditor or creditors shall, on, or within 10

days of, the date of an assignment, give notice thereof in writing to the district director for the internal revenue district in which the debtor is or was required to make returns. For purposes of this subparagraph, an assignee for the benefit of creditors shall be any person who, by authority of law, by the order of any court, by oral or written agreement, or in any other manner acquires control or possession of or title to all or substantially all the assets of a debtor, and who under such acquisition is authorized to use, reassign, sell, or in any manner dispose of such assets so that the proceeds from the use, sale, or other disposition may be paid to or may inure directly or indirectly to the benefit of a creditor or creditors of such debtor.

(4) *Contents of notice*—(i) *Proceedings other than bankruptcy.* The written notice required under paragraph (a)(2) of this section shall contain:

(a) The name and address of the person making such notice and the date of his appointment or of his taking possession of the assets of the debtor or other person whose assets are controlled,

(b) The name, address, and, for notices filed after December 21, 1972, the taxpayer identification number of the debtor or other person whose assets are controlled.

(c) In the case of a court proceeding:

(1) The name and location of the court in which the proceedings are pending,

(2) The date on which such proceedings were instituted,

(3) The number under which such proceedings are docketed, and

(4) When possible, the date, time, and place of any hearing, meeting of creditors, or other scheduled action with respect to such proceedings.

(ii) *Assignment for benefit of creditors.* The written notice required under subparagraph (3) of this paragraph shall contain:

(a) The name and address of, and the date the asset or assets were assigned to, the assignee,

(b) The name, address, and, for notice filed after December 21, 1972, the taxpayer identification number of the debtor whose assets were assigned.

(c) A brief description of the assets assigned,

(d) An explanation of the action expected to be taken with respect to such assets, and

(e) When possible, the date, time, and place of any hearing, meeting of creditors, sale, or other scheduled action with respect to such assets.

(iii) The notice required by this section shall be sent to the attention of the Chief, Special Procedures Staff, of the district office to which it is required to be sent.

(b) *Executors, administrators, and persons in possession of property of decedent.* For provisions relating to the requirement of filing, by an executor, administrator, or person in possession of property of a decedent, of a preliminary notice in the case of the estate of a decedent dying before January 1, 1971, see § 20.6036-1 of this chapter (Estate Tax Regulations).

(c) *Notice of fiduciary relationship.* When a notice is required under § 301.6903-1 of a person acting in a fiduciary capacity and is also required of such person under this section, notice given in accordance with the provisions of this section shall be considered as complying with both sections.

(d) *Suspension of period on assessment.* For suspension of the running of the period of limitations on the making of assessments from the date a proceeding is instituted to a date 30 days after receipt of notice from a fiduciary in any proceeding under the Bankruptcy Act or from a receiver in any other court proceeding, see section 6872 and § 301.6872-1.

(e) *Applicability.* Except as provided in paragraph (a)(1)(ii) of this section, the provisions of this section shall apply to those persons referred to in this section whose appointments, authorizations, or assignments occur on or after the date of publication of these regulations in the FEDERAL REGISTER as a Treasury decision.

(f) *Cross references.* (1) For criminal penalty for willful failure to supply information, see section 7203.

(2) For criminal penalties for willfully making false or fraudulent statements, see sections 7206 and 7207.

(3) For time for performance of acts where the last day falls on a Saturday,

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Sunday, or legal holiday, see section 7503 and § 301.7503-1.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7218, 37 FR 24748, Nov. 21, 1972; T.D. 7238, 37 FR 28738, Dec. 29, 1972; T.D. 8172, 53 FR 2600, Jan. 29, 1988]

### § 301.6037-1 Return of electing small business corporation.

For provisions relating to requirement of return of electing small business corporation, see § 1.6037-1 of this chapter (Income Tax Regulations).

### § 301.6037-2 Required use of magnetic media for returns of electing small business corporation.

(a) *Returns of electing small business corporation required on magnetic media.* An electing small business corporation required to file an electing small business return on Form 1120S, "U.S. Income Tax Return for an S Corporation," under § 1.6037-1 of this chapter must file its Form 1120S on magnetic media if the small business corporation is required by the Internal Revenue Code and regulations to file at least 250 returns during the calendar year ending with or within its taxable year. Returns filed on magnetic media must be made in accordance with applicable revenue procedures, publications, forms, or instructions. In prescribing revenue procedures, publications, forms, or instructions, the Commissioner may direct the type of magnetic media filing. (See § 601.601(d)(2) of this chapter).

(b) *Waiver.* The Commissioner may grant waivers of the requirements of this section in cases of undue hardship. A request for waiver must be made in accordance with applicable revenue procedures or publications. The waiver also will be subject to the terms and conditions regarding the method of filing as may be prescribed by the Commissioner.

(c) *Failure to file.* If an electing small business corporation fails to file a return on magnetic media when required to do so by this section, the corporation is deemed to have failed to file the return. (See section 6651 for the addition to tax for failure to file a return.) In determining whether there is reasonable cause for failure to file the return, § 301.6651-1(c) and rules similar to

the rules in § 301.6724-1(c)(3) (undue economic hardship related to filing information returns on magnetic media) will apply.

(d) *Meaning of terms.* The following definitions apply for purposes of this section:

(1) *Magnetic media.* The term *magnetic media* means any magnetic media permitted under applicable regulations, revenue procedures, or publications. These generally include magnetic tape, tape cartridge, and diskette, as well as other media, such as electronic filing, specifically permitted under the applicable regulations, procedures, publications, forms, or instructions. (See § 601.601(d)(2) of this chapter).

(2) *Corporation.* The term *corporation* means a corporation as defined in section 7701(a)(3).

(3) *Electing small business corporation return.* The term *electing small business corporation return* means a Form 1120S, "U.S. Income Tax Return for an S Corporation," along with all other related forms, schedules, and statements that are required to be attached to the Form 1120S, and all members of the Form 1120S series of returns, including amended and superseding returns.

(4) *Electing small business corporation.* The term *electing small business corporation* means an S corporation as defined in section 1361(a)(1).

(5) *Determination of 250 returns.* For purposes of this section, a corporation is required to file at least 250 returns if, during the calendar year ending with or within the taxable year of the corporation, the corporation is required to file at least 250 returns of any type, including information returns (for example, Forms W-2, Forms 1099), income tax returns, employment tax returns, and excise tax returns. In the case of a short year return, a corporation is required to file at least 250 returns if, during the calendar year which includes the short taxable year of the corporation, the corporation is required to file at least 250 returns of any type, including information returns (for example, Forms W-2, Forms 1099), income tax returns, employment tax returns, and excise tax returns.

(e) *Example.* The following example illustrates the provisions of paragraph (d)(5) of this section. In the example,